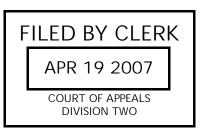
IN THE COURT OF APPEALS STATE OF ARIZONA DIVISION TWO



)	2 CA-MH 2006-0009
)	DEPARTMENT B
IN RE PIMA COUNTY MENTAL)	
HEALTH NO. MH-20000649)	MEMORANDUM DECISION
)	Not for Publication
)	Rule 28, Rules of
)	Civil Appellate Procedure

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Honorable Douglas P. Mitchell, Court Commissioner

AFFIRMED AS MODIFIED

Barbara LaWall, Pima County Attorney By R. Anne Miller

Tucson Attorneys for Appellee

Ann L. Bowerman

Tucson Attorney for Appellant

E C K E R S T R O M, Presiding Judge.

Appellant challenges the trial court's order requiring him to submit to involuntary mental health treatment, arguing the order is not supported by sufficient evidence. We will affirm a trial court's commitment order unless it is "clearly erroneous or unsupported by any credible evidence." *In re Mental Health Case No. MH 94-00592*, 182 Ariz. 440, 443, 897 P.2d 742, 745 (App. 1995). Appellant argues the evidence was insufficient to support the court's findings that he is persistently or acutely disabled and that he is a danger to himself. We agree the evidence was insufficient to support the finding that

appellant was a danger to himself but affirm the finding that appellant is persistently or acutely disabled.

- Appellant maintains the only evidence presented was that he had been loud and intrusive during his hospital stay. As a result, he asserts, there was no evidence he suffers from "severe and abnormal mental, emotional or physical harm that significantly impairs [his] judgment, reason, behavior or capacity to recognize reality," one of the criteria listed in the definition of persistently or acutely disabled in A.R.S. § 36-501(33). We disagree.
- ¶3 Dr. Murphy testified that appellant suffers from paranoid schizophrenia, hypertension, and apparently, hypothyroidism. She testified that, because he believed he suffers from other medical illnesses, but not a mental illness, he repeatedly goes to hospital emergency rooms, demands treatment, insists he is being poisoned, and then refuses offered medical treatment. In fact, although he had told Murphy he has had throat cancer, he then refused to discuss it further with her. He also refused to discuss a stomach scar he said had resulted from a stab wound. And he told Murphy his poisoning had caused him fever, a mouth infection, rotting teeth, jaw spasms, a stainless steel taste in his mouth, a smell of urine, and passing food undigested through his system. But she testified he did not have a mouth infection, rotten teeth, a urinary tract infection, bowel instability, or abnormalities in his electrolyte balance.
- ¶4 Dr. Stoker testified appellant had reported he had been poisoned, someone had taken his keys, had entered his house, and had contaminated his food. Moreover,

appellant rejected the diagnoses of Murphy and Stoker that he suffers from schizophrenia, a perspective that itself sugests appellant's impaired "capacity to recognize reality." § 36-501(33)(a). And appellant himself testified at length about similar medical complaints, in a manner demonstrating his impaired judgment. Accordingly, we conclude the evidence was sufficient for the trial court to find appellant is persistently or acutely disabled.

We agree with appellant, however, that the evidence does not support the trial court's finding that he is a danger to himself. Because there was no evidence he had attempted to commit suicide, the only portion of the definition of "danger to self" that could apply reads as follows: "Behavior that, as a result of a mental disorder, will, without hospitalization, result in serious physical harm or serious illness to the person." § 36-501(6)(b). Although both Murphy and Stoker testified that appellant has hypertension for which he refuses to take medication, neither testified the illness required him to be hospitalized. Their treatment recommendation was instead that he take medication for the illness.

Accordingly, we modify the trial court's commitment order, vacating the finding of danger to self, but affirm it on the ground of persistent or acute disability.

	PETER J. ECKERSTROM, Presiding Judge
CONCURRING:	
I WILLIAM BRAMMER IR Jud	 1ge

PHILIP G. ESPINOSA, Judge